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FM AMEMBASSY KUALA LUMPUR

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UNCLAS KUALA LUMPUR 001049

SENSITIVE

SIPDIS

FOR EAP/MTS AND DRL

E.O. 12958: N/A

TAGS: PHUM PGOV KTIP MY

SUBJECT: HUMAN RIGHTS ACTIVIST IRENE FERNANDEZ ACQUITTED

¶1. (U) Summary and Comment: The Kuala Lumpur High Court on November 24 acquitted human rights activist Irene Fernandez of her 2003 conviction of "maliciously publishing false news" against the government, thus bringing to a close Malaysia's longest running court case. The government originally brought charges against Fernandez in 1996 for her article that described alleged government abuses of migrant workers in detention camps.

¶2. (SBU) Comment: The acquittal of Fernandez is a welcome development for Malaysia's relatively underdeveloped NGO community. Fernandez is one of Malaysia's most prominent human rights activists. In recent years Fernandez and her NGO, Tenaganita, have been key USG partners in combating trafficking in persons. Her acquittal might make it easier for authorities and Tenaganita to work more closely in areas of victim protection and services. In addition to her human rights work, Fernandez is a senior figure within Anwar Ibrahim's PKR party. End Summary and Comment.

¶3. (U) The Kuala Lumpur High Court on November 24 acquitted human rights activist and Opposition PKR Supreme Council member Irene Fernandez of the charge of publishing "false news" on the mistreatment and abuse of migrant workers in Malaysia. High Court Judge Mohamad Apandi acquitted Fernandez on grounds that "the court records are incomprehensible due to systemic error." (Note: The trial generated nearly 9,000 pages of typed and handwritten notes, some of which were lost or unreadable. End Note.) Justice Mohamad Apandi Ali announced the acquittal after the prosecution unexpectedly informed him they would no longer oppose Fernandez's appeal. The acquittal ends 12 years of court hearings, making Fernandez's case the country's longest trial in history. The case against Fernandez centered around her August 1995 published memorandum entitled "Abuse, Torture, and Dehumanized Condition of Migrant Workers in Detention Centers." In 1996, authorities charged Fernandez with "maliciously publishing false news" against the government. The High Court found Fernandez guilty in 2003, following a seven-year trial, and sentenced her to one year in prison. The court released her on bail pending appeal until her acquittal this week.

¶4. (SBU) Fernandez's sister, Aegile, told us the final verdict came unexpectedly. Aegile believes Fernandez's acquittal was influenced by local and international human rights NGOs, who have been vocal in Fernandez's defense. Aegile did voice her concern over the possibility of a new trial, although she believes this highly unlikely.

¶5. (SBU) Fernandez told Embassy political assistant on November 25 that she was happy with the acquittal and was all along confident "justice would prevail." She also told us she planned to continue working on migrant worker, trafficking in persons, and refugee issues. Siva Subramaniam, a National Human Rights Commission of Malaysia (SUHAKAM) Commissioner, described the acquittal as an indication of judicial independence in Malaysia. Yap Swee

Seng, executive coordinator of local the human rights NGO SUARAM, stated the government must do much more than release Fernandez in order to demonstrate judicial independence. According to Migration Working Group coordinator Alice Nah, the government should address the issues raised by Fernandez on the poor treatment of migrant workers in detention centers. Lim Guan Eng, Penang chief minister and Democratic Action Party secretary-general described the acquittal as vindication in Fernandez's battle against the "injustices perpetrated against migrant workers and the political persecution to stifle voices of dissent." We have seen no GOM comments thus far on the acquittal.

KEITH